

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

JOEL QUINTERO,

Petitioner,

v.

T. CAMPBELL,

Respondent.

Case No. 1:23-cv-0174 JLT SAB (HC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, DENYING
PETITION FOR WRIT OF HABEAS
CORPUS, DIRECTING CLERK OF COURT
TO CLOSE CASE, AND DECLINING TO
ISSUE A CERTIFICATE OF
APPEALABILITY
(Doc. 24)

Joel Quintero is a state prisoner proceeding *pro se* with a petition for writ of habeas corpus brought pursuant to 28 U.S.C. § 2254, asserting two claims for relief: (1) prosecutorial misconduct and (2) sufficiency of the evidence. (*See generally* Doc. 1.) The magistrate judge found Petitioner was “not entitled to habeas relief” on the claims presented, because the state court’s denial of Petitioner’s claims “was not contrary to, or an unreasonable application of, clearly established federal law, nor was it based on an unreasonable determination of fact.” (Doc. 24 at 14, 17.) In addition, the magistrate judge found the state’s “decision was not so lacking in justification that there was an error well understood and.” (*Id.*, internal quotation marks, citation omitted.) Therefore, the magistrate judge recommended the petition for writ of habeas corpus be denied. (*Id.* at 17.)

The Court served the Findings and Recommendations on Petitioner and notified him that any objections were due within 30 days. (Doc. 24 at 17.) The Court advised him that the “failure

1 to file objections within the specified time may waive the right to appeal the District Court’s
2 order.” (*Id.* at 18, citing *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014).) Petitioner
3 did not file objections, and the time to do so has passed.

4 According to 28 U.S.C. § 636(b)(1), this Court performed a *de novo* review of this case.
5 Having carefully reviewed the matter, the Court concludes the Findings and Recommendations
6 are supported by the record and proper analysis.

7 Having found Petitioner is not entitled to habeas relief, the Court must determine whether
8 a certificate of appealability should issue. A petitioner seeking a writ of habeas corpus has no
9 absolute entitlement to appeal a district court’s denial of his petition, and an appeal is only
10 allowed in certain circumstances. *Miller-El v. Cockrell*, 537 U.S. 322, 335–36 (2003); 28 U.S.C.
11 § 2253. If a court denies a habeas petition on the merits, the court may only issue a certificate of
12 appealability “if jurists of reason could disagree with the district court’s resolution of [the
13 petitioner’s] constitutional claims or that jurists could conclude the issues presented are adequate
14 to deserve encouragement to proceed further.” *Miller-El*, 537 U.S. at 327; *Slack v. McDaniel*, 529
15 U.S. 473, 484 (2000). While Petitioner is not required to prove the merits of his case, he must
16 demonstrate “something more than the absence of frivolity or the existence of mere good faith on
17 his . . . part.” *Miller-El*, 537 U.S. at 338. In the present case, reasonable jurists would not find the
18 determination that the petition should be denied debatable or wrong, or that Petitioner should be
19 allowed to proceed further. Petitioner did not make the required substantial showing of the denial
20 of a constitutional right. Therefore, the Court declines to issue a certificate of appealability.

21 Accordingly, the Court **ORDERS**:

- 22 1. The Findings and Recommendations issued on July 2, 2024 (Doc. 24) are
23 **ADOPTED** in full.
- 24 2. The petition for writ of habeas corpus is **DENIED**.
- 25 3. The Clerk of Court is directed to close this case.

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1 4. The Court declines to issue a certificate of appealability.

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3 IT IS SO ORDERED.

4 Dated: **August 21, 2024**


UNITED STATES DISTRICT JUDGE